

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 223 be amended to read as follows:

- 1 Page 1, delete lines 1 through 11.
- 2 Page 3, after line 4, begin a new paragraph and insert:
- 3 "SECTION 5. P.L.216-2007, SECTION 56 IS AMENDED TO
- 4 READ AS FOLLOWS [EFFECTIVE JULY 1, 2009] (a) As used in this
- 5 SECTION, "committee" refers to the sentencing policy study
- 6 committee established by subsection (c).
- 7 (b) The general assembly finds that a comprehensive study of
- 8 sentencing laws and policies is desirable in order to:
- 9 (1) ensure that sentencing laws and policies protect the public
- 10 safety;
- 11 (2) establish fairness and uniformity in sentencing laws and
- 12 policies;
- 13 (3) determine whether incarceration or alternative sanctions are
- 14 appropriate for various categories of criminal offenses; and
- 15 (4) maximize cost effectiveness in the administration of
- 16 sentencing laws and policies.
- 17 (c) The sentencing policy study committee is established to evaluate
- 18 sentencing laws and policies as they relate to:
- 19 (1) the purposes of the criminal justice and corrections systems;
- 20 (2) the availability of sentencing options; and
- 21 (3) the inmate population in department of correction facilities.
- 22 If, based on the committee's evaluation under this subsection, the
- 23 committee determines changes are necessary or appropriate, the
- 24 committee shall make recommendations to the general assembly for the

modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(d) The committee shall do the following:

(1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:

(A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.

(B) The deterrent effect a particular classification may have on the commission of the offense.

(C) The current incidence of the offense in Indiana.

(D) The rights of the victim.

(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The committee shall also consider the following:

(A) The nature and characteristics of the offense.

(B) The severity of the offense in relation to other offenses.

(C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.

(D) The number of the defendant's prior convictions.

(E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.

(F) The rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs for the purpose of:

(A) standardizing procedures and establishing rules for the supervision of home detainees; and

(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.

(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the

- 1 problems.
- 2 (6) Assess the cost effectiveness of the use of state and local
- 3 funds in the criminal justice and corrections systems.
- 4 (7) Recommend a comprehensive community corrections strategy
- 5 based on the following:
- 6 (A) A review of existing community corrections programs.
- 7 (B) The identification of additional types of community
- 8 corrections programs necessary to create an effective
- 9 continuum of corrections sanctions.
- 10 (C) The identification of categories of offenders who should be
- 11 eligible for sentencing to community corrections programs and
- 12 the impact that changes to the existing system of community
- 13 corrections programs would have on sentencing practices.
- 14 (D) The identification of necessary changes in state oversight
- 15 and coordination of community corrections programs.
- 16 (E) An evaluation of mechanisms for state funding and local
- 17 community participation in the operation and implementation
- 18 of community corrections programs.
- 19 (F) An analysis of the rate of recidivism of clients under the
- 20 supervision of existing community corrections programs.
- 21 (8) Propose plans, programs, and legislation for improving the
- 22 effectiveness of the criminal justice and corrections systems.
- 23 (9) Evaluate the use of faith based organizations as an alternative
- 24 to incarceration.
- 25 (10) Study issues related to sex offenders, including:
- 26 (A) lifetime parole;
- 27 (B) GPS or other electronic monitoring;
- 28 (C) a classification system for sex offenders;
- 29 (D) recidivism; and
- 30 (E) treatment.
- 31 **(11) Study issues related to the costs of inmate litigation and**
- 32 **the costs of trial in a prosecution for any offense committed at**
- 33 **a state correctional facility and in the county in which the**
- 34 **correctional facility is located.**
- 35 (e) The committee may study other topics assigned by the legislative
- 36 council or as directed by the committee chair. The committee may meet
- 37 as often as necessary.
- 38 (f) The committee consists of twenty (20) members appointed as
- 39 follows:
- 40 (1) Four (4) members of the senate, not more than two (2) of
- 41 whom may be affiliated with the same political party, to be
- 42 appointed by the president pro tempore of the senate.
- 43 (2) Four (4) members of the house of representatives, not more
- 44 than two (2) of whom may be affiliated with the same political
- 45 party, to be appointed by the speaker of the house of
- 46 representatives.

(3) The chief justice of the supreme court or the chief justice's designee.

(4) The commissioner of the department of correction or the commissioner's designee.

(5) The director of the Indiana criminal justice institute or the director's designee.

(6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.

(7) The executive director of the public defender council of Indiana or the executive director's designee.

(8) One (1) person with experience in administering community corrections programs, appointed by the governor.

(9) One (1) person with experience in administering probation programs, appointed by the governor.

(10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(12) One (1) board certified psychologist or psychiatrist who has expertise in treating sex offenders, appointed by the governor to act as a nonvoting advisor to the committee.

(g) The chairman of the legislative council shall appoint a legislative member of the committee to serve as the chairperson of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chairperson of the committee and appoint another chairperson.

(h) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

(i) A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

(j) If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

(k) The committee shall submit:

(1) an interim report of the results of its study to the legislative council before November 1, 2008; and

(2) a final report of the results of its study to the legislative council before November 1, 2010.

The interim and final reports must be in an electronic format under IC 5-14-6.

(l) The Indiana criminal justice institute shall provide staff support to the committee.

(m) Each member of the committee is entitled to receive the same

- 1 per diem, mileage, and travel allowances paid to individuals who serve
2 as legislative and lay members, respectively, of interim study
3 committees established by the legislative council.
- 4 (n) The affirmative votes of a majority of the voting members
5 appointed to the committee are required for the committee to take
6 action on any measure, including the final report.
- 7 (o) Except as otherwise specifically provided by this act, the
8 committee shall operate under the rules of the legislative council. All
9 funds necessary to carry out this act shall be paid from appropriations
10 to the legislative council and legislative services agency.
- 11 (p) This SECTION expires December 31, 2010."
12 Renumber all SECTIONS consecutively.
(Reference is to ESB 223 as printed April 7, 2009.)

Representative Dermody